

## § 102.83

## 42 CFR Ch. I (10–1–08 Edition)

the age of 18, the payments under this alternative calculation will no longer be made on his or her behalf. Because payments under the alternative calculation are to be made on behalf of dependents who are younger than the age of 18, if a dependent meets this requirement at the time of filing of the Request Form, but reaches the age of 18 (or is older than 18 years of age) at the time of the initial payment, no payment will be made to the dependent's legal guardian on his or her behalf under the alternative calculation.

[68 FR 70093, Dec. 16, 2003; 69 FR 7376, Feb. 17, 2004]

### § 102.83 Payment of all benefits.

(a) The Secretary may pay any benefits under this Program through lump-sum payments. If the Secretary determines that there is a reasonable likelihood that the payments of medical benefits, benefits for lost employment income, or death benefits paid under the alternative calculation (described in § 102.82(d)) will be required for a period in excess of one year from the date the Secretary determines the requester is eligible for such benefits, the Secretary may make a lump-sum payment, purchase an annuity or medical insurance policy, or execute an appropriate structured settlement agreement, provided that such payment, annuity, policy, or agreement is actuarially determined to have a value equal to the present value of the projected total amount of benefits that the requester is eligible to receive under §§ 102.80, 102.81, and 102.82(d).

(b) Lump sum payments will be made through an electronic funds transfer to an account of the requester. However, if the requester is a minor, the payment will be made to the account of his or her legal guardian on behalf of the minor. In accepting such payments, the legal guardian of a minor requester is obliged to use the funds for the benefit of the minor and to take any actions necessary to comply with state law requirements pertaining to such payments. If the requester is a legally incompetent adult, the legal guardian must establish a guardianship or conservatorship of the estate account with court oversight, in accordance with

State law, and payment will be made to that account.

(c) The Secretary may, at his discretion, make interim payments of benefits under this Program, even before he makes a final determination as to the total type and total amount of benefits that will be paid. The Secretary may, for example, make an interim payment of medical benefits that have been calculated before a final determination on benefits for lost employment income is completed, or of past medical benefits that have been calculated before a final calculation of future medical benefits is completed. The Secretary may, in his discretion, make an interim payment even before a final eligibility or benefits determination is made (e.g., if a piece of documentation has not been obtained because a person with a severe vaccine-related injury is hospitalized, but all other documentation is consistent with the requester meeting the eligibility requirements). If such a requester's documentation is incomplete, the requester must submit the required documentation within the time-frame determined by the Secretary. Such a requester must agree that he or she will be obliged to repay the Secretary such benefits in the event that such payments are later determined to be inappropriate. Any payments made on an interim basis will not entitle a requester to seek reconsideration of the Secretary's decision on these benefits until the Secretary makes a complete benefits determination.

[68 FR 70096, Dec. 16, 2003, as amended at 71 FR 29811, May 24, 2006]

### § 102.84 The Secretary's right to recover benefits paid under this program from third-party payors.

Upon payment of benefits under this program, the Secretary will be subrogated to the rights of the requester and may assert a claim against any third-party payor with a legal or contractual obligation to pay for (or provide) such benefits and may recover from such third-party payor(s) the amount of benefits paid up to the amount of benefits the third-party payor has or had an obligation to pay for (or provide). In other words, the Secretary may pay benefits before the